



February 9, 2024

Via: ECF

Honorable Miroslav Lovric
Northern District of New York
Federal Building and U.S. Courthouse
15 Henry Street
Binghamton, NY 13901

Re: Rose E.T. DeGroat v. Buck, et al.
Case No.: 3:22-cv-00507 (LEK/ML) [Lead Case]

Cadji Ferguson v. Herz
Case No.: 3:22-cv-00516 (LEK/ML)

Dear Judge Lovric,

On behalf of the defendants in these consolidated cases, please accept this letter as our detailed status report per the Court's order on 1/19/24 (Dkt. No. 53).

Plaintiffs have responded to our Interrogatories and Requests for Production of Documents and based on their representations, they have no further responsive information or documents. Thus, it appears that they have come into compliance with the responses to defendants' discovery demands. Based on the in person hearing before this Court on 1/19/24 during which plaintiffs withdrew all of their claims for lost earnings and medical expenses, plaintiffs have not provided, and we are no longer seeking, responses and documents concerning those withdrawn claims.

We note that due to plaintiffs' delays in responding to discovery demands, including providing medical authorizations, we have necessarily been delayed in sending records requests to plaintiffs' healthcare providers. Once we request and receive all records, we will be in a position to conduct plaintiffs' depositions. We note this just to highlight that our ability to proceed with depositions has been delayed through no fault of defendants'.

On a different topic, plaintiffs recently, very belatedly, served initial written discovery demands on defendants, four months beyond the deadline and without seeking an extension of the deadline from either us or the Court. Per the Uniform Pretrial Scheduling Order issued on 9/7/23, "Initial Written Discovery Demands must be served by October 7, 2023." (Dkt. No. 43.) However, plaintiffs did not serve initial demands (Interrogatories and Requests for Production of Documents) until 1/18/24, and then they served a second set of Requests for Production on 2/6/24. If plaintiffs wanted to serve initial demands beyond the deadline, they should have sought an extension before the deadline passed. They did not do so, nor have they sought an extension at any point in the ensuing four months. They just served the demands and ignored the existence of the deadline. I

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even stated in my status report filed on 11/29/23 (Dkt. No. 48) that plaintiffs did not serve written discovery demands and that the 10/7/23 deadline had passed. They still did not seek an extension. Plaintiffs have played fast and loose with Court orders and deadlines while defendants have been fully compliant. Defendants are not inclined to serve responses to plaintiffs' untimely discovery demands at this point.

Lastly, per the referral of this action to mandatory mediation, the parties have scheduled mediation with Judge Treece for 3/26/24.

Thank you and please let us know if you require any additional information.

Very truly yours,

GOLDBERG SEGALLA LLP

Molly M. Ryan /s/

Molly M. Ryan

MMR:pj

cc: All counsel via ECF